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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,989	07/24/2001	Charles D. Cranor	2001-0227	5226

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EXAMINER

JACOBS, LASHONDA T

ART UNIT PAPER NUMBER

2157

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/911,989

Applicant(s)

CRANOR ET AL.

Examiner

LaShonda T. Jacobs

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-20 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-20, 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

This Office Action is in response to Applicants' RCE filed on August 29, 2005. Claims 9 and 21 have been cancelled. Claims 1, 13, 14 and 18 have been amended. Claims 1-8, 10-20 and 22-24 are presented for further examination.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims **1-8, 10-20 and 22-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over McCreery et al (hereinafter, "McCreery", U.S. Pat. No. 5,787,253) in view of Fleig et al (hereinafter, "Fleig", U.S. Pat. No. 6,748,431)

As per claims **1** and **13**, McCreery discloses a method of monitoring traffic in a network comprising the steps of:

- receiving at least one data packet at a network interface (abstract and col. 6, lines 48-53), said network interface comprising:
- a first module handling communications between the network and a host (abstract and col. 2, lines 11-22), and

- at least one programmable processing modules in communication with said first module (abstract and col. 2, lines 11-22); and
- processing information in the at least one module data packet using the at least one programmable processing module, to generate network information (col. 4, lines 63-67 and col. 5, lines 1-10).

However, McCreery does not explicitly disclose:

- wherein the first module can pass parameters to the at least one processing module, thereby changing the processing performed by the at least one programmable processing module.

Fleig discloses systems and methods for monitoring network exchanges between a client and a server comprising:

- wherein the first module can pass parameters to the at least one processing module, thereby changing the processing performed by the at least one programmable processing module (col. 3, lines 62-67 and col. 4, lines 1-10).

Given the teaching of Fleig, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McCreery by specifying that the programming modules are able to pass parameters through the routines that are included in the programming modules in order to monitor and exchange information over the network in a timely and efficient manner.

As per claims 2 and 14, McCreery discloses:

- wherein the network information can be relayed from the network interface to the host (col. 4, lines 63-67 and col. 5, lines 1-10).

As per claims **3** and **15**, McCreery discloses:

- wherein the at least one programmable processing module is generated from a processing query expressed in a high level language (col. 7, lines 16-26).

As per claims **4** and **16**, McCreery discloses:

- wherein the processing query accesses functions defined in the first module (col. 12, lines 50-59).

As per claims **5** and **17**, McCreery discloses:

- wherein the network information is condensed statistics of network performance (col. 4, lines 63-67 and col. 5, lines 1-10).

As per claims **6** and **18**, McCreery discloses:

- wherein the at least one programmable processing module performs filtering on the information in the at least one data packet (col. 8, lines 28-36 and col. 10, lines 38-45).

As per claims **7** and **19**, McCreery discloses:

- wherein the at least one programmable processing module performs a transformation on the information in the at least one data packet (col. 8, lines 28-36 and col. 10, lines 38-45).

As per claims **8** and **20**, McCreery discloses:

- wherein the at least one programmable processing module performs aggregation on the information in the at least one data packet (col. 8, lines 28-36 and col. 10, lines 38-45).

As per claims **9** and **21**, McCreery discloses:

As per claims **10** and **22**, McCreery discloses:

- wherein the first module can instantiate new processing modules dynamically (col. 12, lines 60-67 and col. 13, lines 1-8).

As per claims **11** and **23**, discloses:

- wherein the network is a Gigabit Ethernet network (col. 6, lines 37-41).

As per claims **12** and **24**, McCreery discloses:

- wherein the at least one data packet is an Internet Protocol datagram (col. 8, lines 23-30).

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-8, 10-20 and 22-24 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 571-272-4004. The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LaShonda T Jacobs  
Examiner  
Art Unit 2157

ltj  
September 16, 2005

  
ARIO ETIENNE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100